

February 19, 2019

VIA ECF

The Honorable Lorna G. Schofield  
U.S. District Court  
Southern District of New York  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, New York 10007

Re: *Contant, et al. v. Bank of Am. Corp., et al.*,  
No. 17 Civ. 3139 (LGS) (S.D.N.Y.)

Dear Judge Schofield:

Pursuant to this Court's November 16, 2018 Order (ECF No. 176), the parties write to update the Court on the status of the above-captioned action.

**Pending Motion to Dismiss/Pleadings**

On November 20, 2018, Plaintiffs filed a Second Consolidated Class Action Complaint ("SCCAC") (ECF No. 183) (amended in accordance with this Court's October 25, 2018 Order). On December 20, 2018, defendants Barclays Bank PLC; UBS AG; UBS Group AG; The Royal Bank of Scotland plc; Credit Suisse Group AG; Société Générale; HSBC Bank plc; MUFG Bank, Ltd.; Standard Chartered Bank; and BNP Paribas Group (collectively, "Foreign Defendants") jointly moved to dismiss the SCCAC for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2). (ECF Nos. 197-200.) Plaintiffs filed their opposition (ECF Nos. 219-220) and supplemental letter (ECF No. 221) on January 28 and 31, 2019, respectively. Foreign Defendants' reply is due February 19, 2019, on which date the motion will be fully briefed. (See ECF No. 176.)

Non-Foreign Defendants'<sup>1</sup> answers were filed on January 11, 2019. (See ECF Nos. 205-216.)

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<sup>1</sup> In the context of this letter, "defendants" excludes settling defendants Citigroup Inc., Citibank, N.A., Citicorp, and Citigroup Global Markets Inc.

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**Discovery**

Discovery is stayed as to Foreign Defendants in connection with the filing of their aforementioned joint Rule 12(b)(2) motion to dismiss. Initial requests to and from these defendants may be served 14 days from any denial of such motion. (*See* ECF No. 176.) Plaintiffs and non-Foreign Defendants exchanged initial disclosures on February 11, 2019.

Pursuant to this Court's November 16, 2018 Order (ECF No. 176), non-Foreign Defendants produced to Plaintiffs documents and recordings produced in discovery in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* (S.D.N.Y. No. 13-cv-7789) ("*FOREX*"), as well as transactional data for spot FX Instrument transactions with entities identified as retail foreign exchange dealers ("RFEDs") by Plaintiffs in November 21, 2018 correspondence. Non-Foreign Defendants subsequently made supplemental productions of transactional data for spot FX Instrument transactions with additional entities Plaintiffs identified as RFEDs in correspondence dated December 21, 2018. Non-Foreign Defendants' production of transactional data covered the period from December 1, 2005, through December 31, 2015, to the extent data for that time period was previously produced in the *FOREX* matter. On February 11, 2019, defendants BNP Paribas US Wholesale Holdings Corp. and BNP Paribas Securities Corp. served a first interrogatory on Plaintiffs.

Pursuant to this Court's December 20, 2018 Order Regarding Deposition Coordination (ECF No. 195), the parties continue to meet and confer regarding a proposed order for the scheduling of depositions in this matter and the related matters: (i) *FOREX*; (ii) *Nypl, et al. v. JPMorgan Chase & Co., et al.* (S.D.N.Y. No. 15-cv-9300); and (iii) *Allianz Global Investors GMBH, et al. v. Bank of America Corp., et al.* (S.D.N.Y. No. 18-cv-10364). On February 15, 2019, the parties in this and the related matters jointly requested an extension of time from February 19 to March 4, 2019 for the filing of a Proposed Deposition Protocol Order. (ECF No. 224.)

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Respectfully submitted,

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